

REMARKS

Claims 1-24, 26, 32-33, 39 and 42 have been previously canceled, claim 25 has been amended and no claims have been added by way of this response. Thus, claims 25, 27-31, 34-38, 40, 41 and 43-47 are currently pending and presented for examination. Applicant respectfully requests reconsideration and allowance of the pending claims in view of the foregoing amendments and the following remarks.

Response to Rejections Under Section 102:

Claims 25, 27-31, 34-38, 40, 41 and 43-47 stand rejected under 35 U.S.C § 102(b), the Examiner contending that these claims are anticipated by Stripf et al (USPN 6,263,487).

Claim 25 has been amended to recite “a program which is structured from the modules and functions”. Support to this amendment may be found, for example, in the Abstract, paragraph [0033] and FIG. 4. claim 25 has been further amended to recite “converting the modules and functions of the structured program into objects to create a machine-independent program in the form of a hierarchical tree”. Support for this amendment may be found, for example, in paragraph [0033] and FIG. 4 and FIG 5.

To anticipate a claim, the reference must teach every element of the claim (MPEP 2131). Applicant respectfully submits that Claim 25 is not anticipated by Stripf for at least the reason that Stripf does not expressly or inherently teach or suggest “a machine-independent program in the form of a hierarchical tree”.

The Examiner apparently equates Java bytecode with Applicant’s machine-independent program in the form of a hierarchical tree. However, Java bytecode is merely an intermediate representation of a Java program which is generated by the Java compiler (see also Java bytecode by Peter Haggar). Each bytecode is one byte in length and represents a machine independent instruction. At runtime, the bytecode is converted to machine dependent code usually via a Java Virtual Machine (JVM). However, Applicant’s machine-independent is in the form of a hierarchical tree. As represented by the specification (see e.g., Fig 5) and as understood by those skilled in the art, a hierarchical tree hierarchy of objects ranked one above another. Applicant respectfully submits that an intermediate representation of the program in bytecode, which merely represents an instruction, does not teach or suggest that machine-independent program is in the form of a hierarchical tree. Furthermore, the interpretation of bytecode a

hierarchical tree is inconsistent with the specification as well as inconsistent with the interpretation that those skilled in the art would reach. MPEP 2111 recites:

During patent examination, the pending claims must be "given their broadest reasonable interpretation consistent with the specification." . . . The broadest reasonable interpretation of the claims must also be consistent with the interpretation that those skilled in the art would reach.

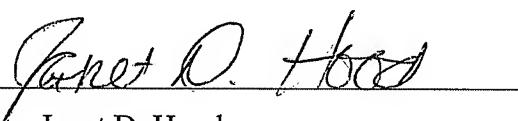
Applicant therefore respectfully submits that claim 25 is patentable over Stripf. Furthermore, claims 27- 31, 34-37 are also patentable at least based on their dependency to claim 25 as well as based on their own merits. Applicant further submits that independent claim 38 has a limitation similar to "machine-independent program in the form of a hierarchical tree" of claim 11 and is therefore also patentable. Claims 40-41, 43-46 which depend on claim 38 are patentable at least base on their dependency to claim 38 as well as based on their own merits.

Conclusion

Accordingly, Applicant respectfully requests that the Examiner reconsider the rejections and timely pass the application to allowance. Please grant any extensions of time required to enter this paper. The commissioner is hereby authorized to charge any appropriate fees due in connection with this paper, including fees for additional claims and terminal disclaimer fee, or credit any overpayments to Deposit Account No. 19-2179.

Respectfully submitted,

Dated: Feb. 3, 2009

By: 
Janet D. Hood
Registration No. 61,142
(407) 736-4234

Siemens Corporation
Intellectual Property Department
170 Wood Avenue South
Iselin, New Jersey 08830